

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

DOT-00 INR-10 NSAE-00 RSC-01 FAA-00 L-03 H-03 SS-20

NSC-07 /090 R

66604

DRAFTED BY EB/AN:PJGLASOE:DAP

6/28/74 EXT. 20352

APPROVED BY EB/AN:MHSTYLES

CAB - C. HEDGES

EUR/EE - MR. CHRISTENSEN

EUR/EE - C. BROWN

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R 282154Z JUN 74

FM SECSTATE WASHDC

TO AMEMBASSY WARSAW

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C O R R E C T E D C O P Y (OMISSION LINE 7, PARA 2 AND GARBLES
THROUGHOUT)

E.O. 11652: N/A

TAGS: ETRN, PL

SUBJECT: CIVAIR: POLISH CHARTER POLICY

REF: WARSAW 3544, STATE 133867

1. FYI: WORLD AIRWAYS STATES IT RECEIVED POLISH AP-
PROVAL FOR JUNE 25 CHARTER TWO HOURS BEFORE TAKE OFF TIME.
HOWEVER, FOR OBVIOUS REASONS IT COULD NOT LEAVE MATTER
PENDING THAT LONG AND HAD ALREADY CANCELLED THE FLIGHT.
END FYI.

2. POLISH POLICY ON CHARTERS AS EXPLAINED PARA 3 WARSAW
3544 RUNS COUNTER TO US POLICY. AS EMBASSY AWARE, US AIR-
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LINE INDUSTRY IS STRUCTURED IN FORM THAT HAS SEVERAL CAR-

RIERS IN ADDITION TO PAN AMERICAN WITH AUTHORITY FROM US CIVIL AERONAUTICS BOARD TO CONDUCT CHARTER FLIGHTS BETWEEN THE US AND POINTS IN EASTERN EUROPE. WE CANNOT EXPLICITLY OR TACITLY AGREE TO ANY ATTEMPT BY A FOREIGN GOVERNMENT TO EXCLUDE ONE OR MORE OF THESE CARRIERS FROM THE MARKET OR EVEN CONCEDE FIRST REFUSAL RIGHTS TO THE US SCHEDULED AIRLINE (AND THE FOREIGN SCHEDULED AIRLINE) PROVIDING SERVICE BETWEEN THE US AND THAT COUNTRY. EVEN IF, AS APPARENTLY IS THE CASE IN THE US-POLAND MARKET, US CARRIERS OTHER THAN PAN AM ONLY RARELY ATTEMPT TO CONDUCT CHARTERS, PRINCIPLE OF FREEDOM OF ACCESS REMAINS IMPORTANT TO UPHOLD. (NEEDLESS TO SAY, USG DOES NOT APPLY OR CONDONE FIRST REFUSAL POLICY IN RELATION TO FOREIGN FLAG CHARTERS TO OR FROM THE US.)

3. EMBASSY IS THEREFORE REQUESTED TO APPROACH POLES, IN FORM IT DEEMS MOST APPROPRIATE AND LIKELY TO BE EFFECTIVE AND MAKE PRECEDING POINT. APPROACH SHOULD ALSO MAKE REFERENCE TO FACT THAT CHARTER RIGHTS LOT HAS ENJOYED ARE GRANTED BY US ON THE BASIS OF RECIPROCITY (THERE BEING NO BILATERAL CHARTER AGREEMENT). LOT HAS BENEFITED SO FAR FROM EXCEEDINGLY LIBERAL US TREATMENT OF ITS CHARTERS. (IN ADDITION TO THE NUMEROUS ON ROUTE CHARTERS IT HAS BEEN OPERATING, FOR WHICH NO APPROVAL HAS BEEN REQUIRED, LOT APPLIED AND RECEIVED APPROVAL FOR 18 ROUND TRIP OFF ROUTE CHARTERS IN 1973 AND 6 SO FAR THIS YEAR.)

4. HOWEVER, YOU SHOULD CONTINUE, LOT CANNOT EXPECT SUCH TREATMENT TO CONTINUE IF THE POLES CONTINUE TO APPLY THEIR NARROW POLICY VIS A VIS US CHARTER OPERATORS. APPROACH WOULD CONCLUDE WITH STATEMENT THAT THE USG THEREFORE SEEKS CONFIRMATION FROM THE POLISH AUTHORITIES THAT IN THE FUTURE THEY WILL NOT APPLY A FIRST REFUSAL POLICY TOWARD CHARTERS ORGANIZED BY LEGITIMATE US CARRIERS. IN THE ABSENCE OF SUCH A STATEMENT, THE US AUTHORITIES SEE NO ALTERNATIVE TO ATTEMPTING TO ESTABLISH A MORE RECIPROCAL SITUATION. TO THIS END, THEY WOULD THUS ANTICIPATE WITHHOLDING PERMISSION FROM FUTURE LOT APPLICATIONS FOR OFF-ROUTE CHARTER AUTHORITY.

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5. FYI: THERE OBVIOUSLY IS NO WAY THE US CAN ESTABLISH A TRULY RECIPROCAL STATE OF AFFAIRS IF THE POLES REFUSE TO ABANDON THE FIRST REFUSAL POLICY VIS A VIS LOT AND PAA SINCE POLAND HAS ONLY ONE AIRLINE IN THE MARKET. HOWEVER, IN VIEW OF THE ALREADY LARGE DISCREPANCY IN THE BENEFITS THE AIRLINES OF THE TWO COUNTRIES ARE DERIVING, THE FACT THAT OFF ROUTE CHARTER RIGHTS ARE GRANTED BY THE CAB TO FOREIGN AIRLINES ON THE BASIS OF RECIPROCITY BROADLY

DEFINED, AND THE IMPORTANCE TO THE USG OF UPHOLDING THE PRINCIPLE DISCUSSED ABOVE, THE PRECEDING SCENARIO APPEARS THE ONLY REASONABLE ONE WHICH IS AT THE SAME TIME POTENTIALLY EFFECTIVE. IT WORTH NOTING THAT LOT IS NOT BEING SINGLED OUT BY THE US FOR POSSIBLE CAB DENIALS OF CHARTER APPLICATIONS, SINCE THIS IS NOT THE FIRST TIME THE CAB HAS DENIED FOREIGN AIRLINE CHARTER RIGHTS IN RESPONSE TO RESTRICTIONS BY OTHER COUNTRIES ON US CARRIER CHARTER OPERATIONS. EXAMPLES ARE FOUND IN THE CASES OF CANADA, IRELAND AND ISRAEL. END FYI. SISCO

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